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## FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER OF SUSPENSION

The South Dakota Board of Nursing's ("Board") hearing on the summary suspension of Beth Berens, RN, license number R0331464 ("Licensee") came before the Board at its office in Sioux Falls, South Dakota, on February 9, 2018, at 9:30 a.m.

Licensee, having been sent the Order for Summary Suspension and Notice of Hearing and Affidavit of Francie Miller by regular mail and certified mail at her last known address in Rosenberg, Texas, received service as evidenced by the return receipt for certified mail delivered to Licensee's home on December 27, 2017.

Licensee did not appear in person to present evidence on her behalf or to confront witnesses. The Board appeared by and through its attorney, Kristine K. O'Connell. Administrative Law Judge Catherine Duenwald presided over the proceeding. The proceeding was transcribed by a court reporter.

The Board considered the evidentiary testimony of Francie Miller, Board Investigator. The Board also considered the public documents on file in this case and being charged with the statutory obligation to protect the public health, safety and welfare set forth in SDCL § 36-9,

including the protection of the public from unsafe nursing practices and practitioners, the Board hereby makes the following:

### **FINDINGS OF FACT**

1. That the Licensee is licensed to practice as a registered nurse in the State of South Dakota and holds license number R033164.
2. That the Licensee signed a Participation Agreement with the Health Professionals Assistant Program ("HPAP") on April 13, 2017
3. The voluntary participation in HPAP by the Licensee was in response to allegations that she, while working in a clinic, wrote unauthorized prescriptions for multiple refills of Xanax for herself.
4. In April 2017, based on Licensee's actions, the Board mandated her into HPAP with terms and conditions to be determined by HPAP.
5. On or about October 17, 2017, the Board was notified by HPAP that Licensee had been unsuccessfully discharged from the program.
6. The Board attempted to contact the Licensee by phone and was unable to reach her as her voicemail box was full.
7. The Board sent certified mail and mailed through the USPS with no contact from the Licensee

From the foregoing findings of fact, the Board draws the following:

### **CONCLUSIONS OF LAW**

1. That the Board has jurisdiction and authority over this matter pursuant to SDCL §§ 36-9-1.1 and 36-9-49.

2. That the Licensee's conduct as identified in the findings of fact are in violation of SDCL §§ 36-2A (unsuccessful discharge from the HPAP).

THEREFORE, let an order be entered accordingly.

### ORDER

Based on the Findings of Fact and Conclusions of Law, the South Dakota Board of Nursing hereby orders:

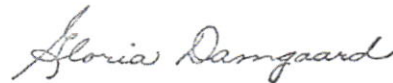
1. That the Licensee's license to practice nursing in the State of South Dakota is hereby indefinitely suspended.

2. That the Licensee is hereby notified that any practice of or holding herself out as a registered nurse during the term of this suspension is in violation of SDCL § 36-9-68.

4. That Licensee may petition for reinstatement of her license at any time for "good cause" pursuant to SDCL § 36-9-57.

Dated this 7<sup>th</sup> day of March, 2018.

SOUTH DAKOTA BOARD OF NURSING

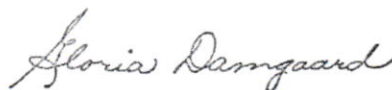


Gloria Damgaard, RN, MS  
Executive Director

The South Dakota Board of Nursing, at the hearing on the 9<sup>th</sup> day of February, 2018, approved this Order of Suspension as written by a vote of 7-0, and issues its Order of Suspension consistent herein.

IT IS HEREBY ORDERED that the above Order of Suspension is adopted as an Order of the South Dakota Board of Nursing on this 7<sup>th</sup> day of March, 2018.

SOUTH DAKOTA BOARD OF NURSING

A handwritten signature in cursive script, reading "Gloria Damgaard", is written over a horizontal line.

Gloria Damgaard, RN, MS  
Executive Director